

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

KEVIN M. GREGG,

Plaintiff,

v.

IBEW LOCAL UNION 305, et. al.,

Defendants.

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CAUSE NO. 1: 08- CV-160

OPINION and ORDER

This matter is before the Court on the Plaintiff's Motion and Memorandum (DE# 27) requesting that all electronically stored information (ESI) produced during discovery be produced in a hard copy format and at the producing party's expense. For the reasons provided, the plaintiff's motion will be denied.

The plaintiff's motion was filed on October 24, 2008, and at a time when the parties were crafting a Report of the Parties' Planning Meeting prior to a preliminary pretrial conference. It appears that the topic raised in the motion was never actually discussed by the parties, and in any event, the plaintiff has now added additional parties. Because of the plaintiff's amended complaint adding more parties, no scheduling order was ever entered.

Accordingly, at this juncture the Court is denying the plaintiff's motion with the admonishment that prior to the next scheduling conference, the plaintiff and counsel for the defendants are to discuss and hopefully agree upon, the manner by which document production (including ESI) is to occur in this case. Fed. R. Civ. P. 26(f)(3)(C). Ultimately, of course, if the parties cannot agree, then the Court may order the manner of production and the costs of such

production as part of a scheduling order, or the Court may wait until a request for production is actually submitted, see Fed. R. Civ. P. (b)(1)(C), and objected to by the defendants, Fed. R. Civ. P. 34(b)(2)(D).

By a separate order, this matter is being set for a further scheduling conference for January 14, 2009, at 10:30 a.m. The Plaintiff's Motion and Memorandum (DE# 27) is hereby DENIED.

Enter: December 17, 2008.

S/Roger B. Cosbey
Roger B. Cosbey
United States Magistrate Judge